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September 17, 2020

VIA ECF

Honorable Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

**RE: *United States v. Winston Anthony Rose*
19 Cr. 580 (LTS)**

Dear Judge Swain,

Winston Anthony Rose, who goes by Tony, never expected to be in this situation. He's a 47-year-old man with no prior criminal history (excepting one college incident that was dismissed) who has worked hard to support his family. He fully acknowledges his conduct and accepts responsibility for it, yet it remains baffling to him and everyone who knows him. As the Presentence Report ("PSR") and letters written by his friends, co-workers and family make abundantly clear, Tony has had one serious lapse in judgment in an otherwise exemplary life. Based on Mr. Rose's character, as well as the current situation in the BOP regarding COVID-19, it is respectfully requested that a term of home incarceration is more appropriate than a custodial sentence.

PROCEDURAL BACKGROUND AND PLEA AGREEMENT

Indictment 19-cr-580 (LTS) was filed in the Southern District of New York on August 14, 2019. Count 1 charges that in August 2019, in the Southern District of New York and elsewhere, Winston Anthony Rose, and others conspired to distribute and possess with the intent to distribute five kilograms and more of cocaine, in violation of 21 U.S.C. 841(b)(1)(A).

On February 10, 2020, Mr. Rose appeared before U.S. Magistrate Robert W. Lehrburger and pleaded guilty to the indictment. The Plea Agreement calculated Mr. Rose's guideline range as follows:

A. Offense Level and Criminal History Category

1. The applicable guidelines manual is the November 1, 2018 manual.
2. The applicable Guideline for Count One of the Indictment is U.S.S.G. § 2D1.1.
3. Pursuant to U.S.S.G. § 2D1.1(a)(5) and (c)(6), the base offense level is 28.

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4. Based on the information currently available to this Office, the defendant appears to meet the criteria set forth in subdivisions (1)-(5) of section (a) of U.S.S.G. § 5C1.2. Accordingly, pursuant to U.S.S.G. § 2D1.1(b)(18), a two-level reduction is warranted.

5. Assuming the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through her allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional 1-level reduction is warranted, pursuant to U.S.S.G. § 3E1.1(b), because the defendant gave timely notice of her intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines offense level is 23. Mr. Rose's Criminal History Category is I for an applicable guideline range of 46-57 months. The Court may also impose a fine \$20,000 to \$5,000,000, depending on Mr. Rose's ability to pay.

THE PRESENTENCE REPORT

I refer below to the final revised Presentence Report ("PSR") prepared by the United States Probation Office ("Probation"), dated April 30, 2020. The PSR's offense level computation and guidelines recommendation are the same as the Plea Agreement's calculations. PSR ¶5.

The PSR recommends a below-guidelines sentence of a year and a day with 3 years of supervised release. A fine is not recommended and restitution is not applicable in this case. PSR at 17.

DISCUSSION

The letters written by Tony's friends, coworkers and family are unanimous in both their support for Tony and their disbelief that he would engage in any criminal behavior. Many of the letter writers have known Tony for decades. As a lawyer, I do not believe that I have ever received such an overwhelming response from friends and family.

Some of Tony's oldest friends have written letters on his behalf. Saeeda Gill has known Tony for 42 years and states that:

I understand that his charge is a serious crime and I cannot speak to the nature of the incident. I can only say that I have known Winston for 42 years and can testify that he is a kind, thoughtful professional, who works hard for his family and community.

Letter from Saeeda Gill attached as Exhibit A.

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Maurice Rawlins grew up with Tony and considers him a brother. His reaction to the charges is typical:

Your Honor, I was probably the last friend to find out about this incident, which I can understand due to my profession. I can't fathom how Tony got into this situation, but I have known him literally since Pre School and this is very much out of character for him. Tony is a great friend, father and man overall. I hope you will consider this when you sentencing him.

Letter of Maurice Rawlins attached as Exhibit B.

Tony's mother also struggled with reconciling her knowledge of her son with his actions, particularly since he managed to avoid trouble while growing up:

I am writing you this letter to tell you that I understand that the offense in question is a serious one but is not reflective of the Tony that I know. Tony has always been a hard working, intelligent, trustworthy person and has always avoided trouble. Avoiding trouble was not always easy to do going up in South Jamaica, Queens especially in the 80's and 90's amidst the crime and corruption of our community. Tony chose to further avoid trouble in our community by not going to his zoned High School and taking a test to go to one of the elite specialized High Schools in NYC, Brooklyn Tech. I was very proud of him for making that decision. Furthermore, he decided to run track in order to find a way to relieve the financial burden that college would have on me. That was a great decision as he ended up being the New York State Champion in the 110 High Hurdles and earning a full scholarship The University of Iowa.

To say that I am surprise that Tony finds himself in this situation would be an understatement! As I stated earlier, this is not the Tony that I know and is totally out of character for him.

Letter from Ines Rose attached as Exhibit C.

Many of Tony's friends from college at the University of Iowa have stayed in touch with him and have written letters on his behalf. Flordeliz Sunshine Mitchell has known Tony for almost thirty years. Letter from Flordeliz Sunshine Mitchell attached as Exhibit D. She has remained close with him since her freshman year and is the godmother to Tony's daughter. Exhibit D. Her shock when Tony told her of his crime is palpable, but so is her faith that he will recover from this:

Though I have to admit, I was in a state of shock when he told me, the one thing that rang true of Tony's character, even in that vulnerable moment, is his ability to be introspective, acknowledge, and make amends for his mistakes. Though his actions will have a ripple effect on all those who love him, including his only daughter, who is set to graduate from high

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school during a time already mentally and emotionally straining for so many people, having known Tony for decades, I truly believe that the actions for which he stands trial represent an aberration that he will never repeat. He is not only remorseful for his choices, but woefully penitent for the pain this has caused all who know and love him. Tony is a loving and benevolent father, husband, friend who stands ready to acknowledge and make penance for his actions.

Exhibit D.

Another friend from college, Michael Sterling, was not as close to Tony, but has always been grateful for his kindness during a difficult time in college. Michael Sterling's letter attached as Exhibit E. Since college, Mr. Sterling has occasionally received updates about Tony's life:

With that being said, I have nothing but positive memories and recollections of my interactions with Tony while at Iowa. Since that time, when ever I've heard of Tony or how he was doing in life, it seemed as if he was doing well. I believe he had, what I would've thought to be, an exciting career working for/with ESPN, involved in production or camera work of some sort. In any of the interactions that I've had with him throughout the years being it in person, or any of the various means of communications, my experience(s) have always been positive.

Exhibit E.

Like Ms. Mitchell, Mr. Sterling also expresses surprise at Tony's actions:

If I were in a room with 100 of Tony's closest friends and family, I would be willing to wager that I would not be alone when I say that this is something that simply does not seem to be in Tony's character. I pray that in this instance, great leniency could be given as this simply is not who Tony is.

Exhibit E.

Tony's other college friends were also stunned:

Lillie Miller, currently a Police Lieutenant with the Des Moines, Iowa police department, has known Tony since college:

I understand the seriousness of this matter and am writing today to express my strong support for leniency in the sentencing of my dear friend Winston A. Rose(Winston). At the University of Iowa for more than three decades I became friends with Winston , I have known Winston to be an

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upstanding citizen, who cares deeply. Winston is a loving son, father, husband, friend and neighbor. I believe that as he moves forward Winston will emerge an even better person. In short Winston expressed a deep sense of remorse in making such a serious mistake and I believe in his ability to pay his debt to society. Despite the current case, I still believe Winston to be an honorable individual, a valuable member of the community, and a good human being.

Lillie Miller's Letter attached as Exhibit F.

Another friend from Iowa, Lisa Fender, has also remained close, and even named her son after Tony. Like everyone else who knew him, she was taken aback by the news:

All of this is why I was shocked to hear of the current situation Tony is in. When Greg and I were first made aware, my initial feeling was and still is, heartbreak. I knew without a doubt that Tony would be devastated by these consequences and the situation he found himself in. I know he is thinking of his family first and not himself as to who this will affect. He feels great responsibility for those around him.

Letter from Lisa Fender attached as Exhibit G.

Arica Wright also thought about the person she knew from college:

Prior to writing this letter I thought quite a bit about my friend. In my thoughts, I have been reminded that Tony is a "no excuse" type of person. He is always accountable for his actions even when he misses the mark. This is actually my favorite characteristic that he possesses. He lives by a creed that enables him to exhibit strength while expecting others around him to do the same. Because of this belief system he was a wonderful role model for his brother and an unpaid motivational speaker in our friendship group.

Letter from Arica Wright attached as Exhibit H.

K. Nickol Scott knew Tony in college and has served as career mentor:

Needless to say, I was taken aback when he told me what was happening. I didn't really understand where this all came from, especially knowing what type of person Tony is. I just didn't think he could risk jeopardizing his great family and career life with a careless decision. This definitely seemed out of place and not in line with where he is in his life. He has expressed extreme remorse but completely understands responsibility for actions.

K. Nickol Scott's letter attached as Exhibit I.

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Tony's former and current coworkers were also stunned by his actions. Vanessa Ford, an Associate Director at ESPN, has known Mr. Rose for thirteen years in his capacity as a stage manager. She writes that she "was both surprised and troubled to hear of this recent case involving Winston, he has always been such a gentleman and upright character to his community and peers." Vanessa Ford's letter attached as Exhibit J.

Craig Crippen got to know Tony while he was providing security on one of TV shows that Tony worked on:

I have known Winston Tony Rose since 2003. I met him while I was employed as Lieutenant of Delaware State University's Police Department. He was a producer for a popular show that appeared on BET. He appeared to be very humble and personable. I had my officers working security for the show's set, that was in my Jurisdiction on the Campus of Delaware State University. I found Tony to be concerned with and appreciative of the officers time and efforts with securing the set. When I observed this demeanor from him we became friends and have been friends since that day. He has always shown himself to be of good moral character to me and I have NEVER seen nor heard of him in the eighteen years that I have known him do anything wrong and was completely shocked when finding out the news of his charges.

Letter from Craig Crippen attached as Exhibit K.

Mr. Crippen's letter is all the more surprising since he writes that he would not write such a letter for his own nephew! Exhibit K.

Other coworkers have also written on Tony's behalf: Letter of Eugene Caldwell attached as Exhibit L; Letter of Wayne Brooks attached as Exhibit M.

Each of the letter writers also describes Tony as someone who accepts responsibility for his actions. Over and over, they state that Tony has acknowledged is guilt and expressed true remorse.

Perhaps the most compelling letter is the one written by Tony's wife, DeLisa Rose. Her hurt, confusion, anger, and love for Tony radiate off the page. She is more surprised than anyone, but ultimately knows her husband is the man she thought he was:

I would imagine it's natural for any wife, friend, parent or child to (to hear that someone they know, trust and love plead guilty) to question the moral character of them? I honestly regret and apologize for questioning Tony's character, because the only Tony I have ever known is the Tony I know. I hope he is judged for being nothing other than who he is. Tony Rose is a square, gentle-giant who was raised in Jamaica Queens, went to a D1

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college, got out of the hood, got married and has been in the suburbs working to make the community and the world a better place. Tony is a mellow, non-confrontational, Mr. Mom, Father of the Year, home-body, who likes movies, music, studying history and being the air underneath the wings of others. He is an inspiration, the voice of encouragement, the mind of reason, the calm in a storm and the friend who gets in the pit with you only in order to carry you out of it. Tony sees the good in every person and every situation.

Letter from DeLisa Rose attached as Exhibit N.

CONCLUSION

Wherefore, for the above stated reasons, a sentence of home incarceration would be both reasonable based on Mr. Rose's personal characteristics and consistent with the goals of sentencing as outlined in 18 U.S.C. § 3553(a).

Respectfully submitted,



Meredith S. Heller

Cc: A.U.S.A. Daniel Nessim (via ECF)